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OFFICE OF PETITIONS

In re Application of
Marc Zeicher
Application No. 08/807,500
Filed: February 27, 1997
Attorney Docket No. 236007

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 3, 200, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on September 4, 2000. See MPEP 1215.04.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Petitioner submitted a Request for Continued Examination (RCE), without the proper submission on February 5, 2001. Accordingly, the Request for Continued Examination (RCE) was improper under

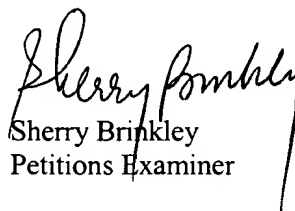
37 CFR 1.114. Since the proper submission has been filed with the instant petition, the application will be revived solely for purposes of continuity with the Request for Continuation Examination (RCE) filed on February 5, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1636, for processing the Request for Continued Examination under 37 CFR 1.114.



Cheryl Gibson-Baylor
Petitions Examiner
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Office of the Deputy Commissioner
for Patent Examination Policy



Sherry Brinkley
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